IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

-

WRIT PETITION No. 10884 of 2004

Between:

R.Shivannarayana, s/o Prasada Rao,
E.No.457465 r/o Post & Village Bommidi, Unguturu Mandal, West Godavari District.

..... PETITIONER

AND

1 The A.P.S.R.T.C., Rep., by its Managing Director,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Visakhapatnam,
Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not regularising the services of the petitioner from the date of his initial appointment as per A.P.S.R.T.C., Recruitment Regulations, 1966 and Service Regulations, 1964 as arbitrary, illegal, unjust, contrary to law, in violation of principles of natural justice, without jurisdiction contrary to Regulations of the Corporation and also in violation of Articles 14, 16 of the Constitution of India and consequently direct the respondents to declare the probation and reckon the seniority of the petitioner as per the APSRTC Recruitment Regulations, 1966 and Service regulations, 1964

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondents: MR.VENKATESWARLU POSANI

The Court made the following :

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No. 10884 of 2004

ORDER:

Heard both the counsel appearing for the parties.

The petitioner seeks a writ of Mandamus declaring the action of the of the respondents in not regularizing his services from the date of his initial appointment in view of the award of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, made in I.D.No. 3 of 1996 dated 07.11.1998 as arbitrary and illegal.

It is stated that as per the A.P.S.R.T.C. Recruitment Regulations, 1966 and Service Regulations, 1964, the petitioner is entitled for regularization of his seniority from the date of his initial appointment, as the Tribunal while setting aside the removal order directed the respondents to reinstate the petitioner with continuity of service, but without back-wages.

It is stated that the petitioner was appointed as a driver in 1990. But immediately after the appointment, the accident occurred to the vehicle bearing No. AAZ 6661 driven by the petitioner and after conducting enquiry, he was removed from service by an order dated 19.11.1991. Questioning the said order of the removal, the petitioner raised an Industrial Dispute in I.D.No. 3 of 1996 and the Industrial Tribunal-cum-Labour Court by its award dated 07-11-1998, set aside the removal order directing the management to reinstate the

petitioner with continuity of service, but without back-wages. It is also stated that he is entitled for regularization of services from the date of his appointment and for declaration of probation. But his case has not been considered by the authorities. It is further stated that other persons who were recruited along with him and also juniors to him were regularized and their appointment was confirmed after completing five years by order dated 25.10.1997 of the Depot Manager, Waltair. It is further stated that he made a representation before the 2nd respondent-the Regional Manager, A.P.S.R.T.C., Visakhapatnam, dated 23.04.1999, for regularization of his services from the date of his appointment but the said representation has not yet been considered.

I have perused the Award of the Labour Court and the Award clearly directs for the reinstatement of the petitioner with continuity of service, but without back-wages and the order of the removal was set aside. That being the case, I fail to understand how the continuity of the service could be denied once the petitioner is directed to be reinstated into services on setting aside the order of the removal. It is not the case of the fresh appointment but it is the case of reinstatement, as per the award of the Labour Court.

The Supreme Court in **Gurpreet Singh v. State of Punjab** in similar facts and circumstances of the case, wherein a direction was issued for reinstatement into service on setting aside the order of termination, held that as it is not a case of fresh appointment, but it is a case of reinstatement and whenever there is an order of reinstatement, they are entitled to continuity of service.

Following the aforesaid judgment, the Writ Petition is allowed directing the respondents to regularize the services of the petitioner in accordance with the A.P.S.R.T.C. Recruitment Regulations, 1966 and Service Regulations, 1964 within a period of six (6) weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly, disposed of. No order as to costs.

V. ESWARAIAH, J.

30th July, 2004

Note:

Issue CC within week

(B/o.)

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Thirtieth Day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1. The Managing Director,

   A.P.S.R.T.C.,

   Musheerabad,

   Hyderabad.

2. The Regional Managjer,

   A.P.S.R.T.C.,

   Visakhapatnam,

   Visakhapatnam District.

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